Supreme Court, U. S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1977

No. 77-1345

TELEPHONE USERS ASSOCIATION, INC.,
Petitioner,

v.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

and

THE CHESAPEAKE AND POTOMAC TELEPHONE COMPANY,
Respondents.

On Petition for Writ of Certiorari to the District of Columbia Court of Appeals

BRIEF FOR RESPONDENT THE CHESAPEAKE AND POTOMAC TELEPHONE COMPANY IN OPPOSITION

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PRESS OF BYRON S. ADAMS PRINTING, INC., WASHINGTON, D. C.

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QUESTION PRESENTED

Should this Court undertake to review a decision of the District of Columbia Court of Appeals which held that an order prescribing rates for telephone service in the District of Columbia was supported by substantial record evidence and was in conformity with the local regulatory statute?

ARGUMENT

Petitioner Telephone Users Association, Inc. ("TUA") once again requests this Court to review a decision of the District of Columbia Court of Appeals affirming an order of Respondent Public Service Commission of the District of Columbia ("Commission") prescribing rates for the telephone services offered by Respondent The Chesapeake and Potomac Telephone Company ("C&P").[1] In support of its petition for writ of certiorari, TUA offers the following arguments, none of which warrant granting review in this case:

1. TUA claims that the discounted rates for telephone service which have been available to C&P's employees for many decades violate D.C. Code § 43-201a. The District of Columbia Court of Appeals found that providing rate discounts to employees is a common and not unreasonable practice consistently approved by the D.C. Commission as well as regulatory commissions in other jurisdictions.

2. TUA asserts that the Commission has the authority to require C&P to pay TUA's counsel fees pursuant to D.C. Code § 43-412. The District of Columbia Court of Appeals held that this statute, on its face, applies to the litigation expenses of only the Commission and People's Counsel.

[1] This Court has repeatedly denied TUA's requests to review judicial decisions affirming Commission orders prescribing C&P's rates. *See, e.g., Telephone Users Ass'n* v. *Public Service Comm'n*, 304 A.2d 293 (D.C. Ct. App. 1973), *cert. denied*, 415 U.S. 933 (1974); *Telephone Users Ass'n* v. *Public Service Comm'n*, Case No. 7126 (D.C. Ct. App. April 20, 1973) (unreported), *cert. denied*, 415 U.S. 934 (1974); *Telephone Users Ass'n* v. *Public Service Comm'n*, Case No. 6098 (D.C. Ct. App. November 8, 1971) (unreported), *cert. denied*, 406 U.S. 933 (1972); *Telephone Users Ass'n* v. *Public Service Comm'n*, 271 F.Supp. 393 (D.D.C. 1967), *aff'd*, Case Nos. 21,318-19 (D.C. Cir. Oct. 21, 1968) (unreported), *cert. denied*, 395 U.S. 910 (1969).

3. TUA maintains that a conflict exists between the United States Court of Appeals for the District of Columbia Circuit and the District of Columbia Court of Appeals concerning the standard for determining the reasonableness of a utility's expenses. The United States Court of Appeals for the District of Columbia Circuit has stated that expenses must be "honestly, efficiently, and economically incurred." *Nader* v. *FCC*, 520 F.2d 182, 204 (D.C. Cir. 1975). Applying this same standard, the District of Columbia Court of Appeals failed to find any support in the record for TUA's allegations that C&P's expenses were not honestly, efficiently, and economically incurred.

4. TUA contends that C&P should be required to pay "reparations" for having made payments for services rendered by American Telephone and Telegraph Company, of which C&P is a wholly-owned subsidiary. The District of Columbia Court of Appeals found that the reasonableness of these payments was supported by substantial record evidence.

None of these claims warrant granting TUA's petition for writ of certiorari.[2] Each of TUA's claims is based upon a disputed construction of the District of Columbia Public Service Law. Therefore, TUA seeks nothing more than this Court's review of the District of Columbia Court of Appeals' interpretation of a local statute. This Court has repeatedly stated

[2] TUA does not claim that this case presents any constitutional or substantial federal question. *See*, Supreme Court Rule 19.

that, absent compelling questions, it will not review judicial decisions construing statutes whose application is limited to the District of Columbia. *See, e.g., General Motors Corp.* v. *District of Columbia,* 380 U.S. 553, 556 (1965); *District of Columbia* v. *Pace,* 320 U.S. 698, 702 (1944); *Del Vecchio* v. *Bowers,* 296 U.S. 280, 285 (1935).

CONCLUSION

For the reasons stated above, the petition for writ of certiorari in Docket No. 77-1345 should be denied.

Respectfully submitted,

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